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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,191	02/14/2001	Eric Jonathan Bauer	Bauer 9-1	6821

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DEANE JR, WILLIAM J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2642

DATE MAILED: 05/20/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

SJ

Office Action Summary

Application No.	BAUER ET AL.
Examiner	Art Unit
William J Deane	2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 March 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-41 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-41 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6) Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of call segments must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7 – 10, 17 - 19, 27 and 35 - 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,546,395 (Sharma et al.).

With respect to claims 1, 10, 19, 27 and 35, Sharma et al. teach a method for dynamically adjusting the bandwidth utilized by an application (Col. 1, line 67 – Col. 2, line 4) comprising the steps of selecting an encoding scheme note compressions scheme (Col. 1, lines 52 – 57 and Col. 2, lines 21 – 24), monitoring one or more conditions on the network (inherent) and selecting a new encoding scheme (Col. 2, lines 21 – 22). In addition, note Col. 5, lines 58 – 61. Therefore, Sharma et al. teach the

claimed device except for the dynamically adjusting the bandwidth utilized by a plurality of applications. However, it would have been obvious to one of ordinary skill in the art to have incorporated the ability to dynamically adjust the bandwidth utilized by a plurality of applications, as such would only entail the duplication of dynamically adjusting the bandwidth for an application, which as shown above Sharma et al discloses.

With respect to claims 7 and 16, such is inherent

With respect to claims 8 – 9 and 17 - 18 note the negotiation handshake (Col. 2, lines 22 – 24).

With respect to claims 36 – 41, such claims are directed to different applications and such claims would be obvious in view of Sharma et al.

Claims 2 – 5, 11 – 14, 20 – 25, 28 – 34, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view of U.S. Patent No. 5,926,483 (Javitt)

With respect to claims 2 – 4, 11 – 13, 20 – 22, 25 and 29 – 31 and 33 - 34, Sharma et al. teach the claimed method except for monitoring of traffic, however Javitt teaches such (see Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such traffic monitoring as taught by Javitt into the Sharma et al. as such would only entail the substitution of one monitored parameter for another.

With respect to 5, 14, 23 it would have been obvious to one of ordinary skill in the art to have selected an encoding scheme that performs well under the observed network characteristics

Claims 6 and 15, 20, 24, 28 and 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view of U.S. Patent No. 5,070,527 (Lynn).

Sharma et al. teach the claimed method except for the predetermined time threshold. Lynn teaches such (Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such predetermined threshold as taught by Lynn into the Sharma et al. as such would only entail the substitution of one monitored parameter for another.

Response to Arguments

Applicant's arguments with respect to claims 1 - 41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2642

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9314.

11May03



WILLIAM J. DEANE, JR.
PATENT EXAMINER